

First Supplement to Memorandum 2017-50

California Public Records Act Clean-Up: Cross-References

Memorandum 2017-50¹ presents an Exhibit highlighting the statutory cross-references appearing in the California Public Records Act (“CPRA”)² as of the publication date of that memorandum, and discusses technical correction of cross-references in that Exhibit that appeared potentially problematic to the staff.

Attached to this supplement is a second Exhibit, listing sections of the CPRA that have been added or amended by enactments through the remainder of the recently concluded legislative session.³ New statutory cross-references appearing in those sections are again highlighted, this time in ALL CAPS text (ALL CAPS SHADED for a cross-reference outside the CPRA, and ALL CAPS BOLD for an internal cross-reference).

The staff has reviewed these new cross-references for potential problems, and found none. The staff has *not* again reviewed the cross-references highlighted in the Exhibit to Memorandum 2017-50 for any new problem that might have been created by legislative enactments occurring after publication of that Exhibit.⁴ We plan to postpone that step until the end of this study, when we prepare a draft of a final recommendation for the Commission to review.

The staff encourages interested persons to notify the Commission of any CPRA cross-reference that appears problematic.

Respectfully submitted,

Steve Cohen
Staff Counsel

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. Gov’t Code §§ 6250- 6276.48.

3. Government Code Section 6253.2, as amended by 2017 urgency legislation that took effect prior to publication of Memorandum 2017-50, was included in the Exhibit attached to that memorandum. Section 6253.2 is therefore *not* included in the Exhibit attached to this supplement.

4. For example, the repeal or renumbering of a cross-referenced section.

LEGEND:

Shaded text indicates an *external* cross-reference (i.e., a reference to a statutory provision that is *not* contained within the California Public Records Act).

Bold text indicates an *internal* cross-reference (i.e., a reference to a statutory provision that *is* contained within the California Public Records Act).

ALL CAPS SHADED TEXT indicates an *external* cross-reference that was not included in the Exhibit presented by Memorandum 2017-50.

ALL CAPS BOLD TEXT indicates an *internal* cross-reference that was not included in the Exhibit presented by Memorandum 2017-50.

CALIFORNIA PUBLIC RECORDS ACT (SELECTED SECTIONS)
(GOV'T CODE §§ 6250-6276.48)

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CALIFORNIA PUBLIC RECORDS ACT (SELECTED SECTIONS)

(GOV'T CODE §§ 6250-6276.48)

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TITLE 1. GENERAL

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DIVISION 7. MISCELLANEOUS

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CHAPTER 3.5. INSPECTION OF PUBLIC RECORDS

Article 1. General Provisions

§ 6253.5 (amended). Access to initiative, referendum, recall, and other specified petitions and supporting memoranda

6253.5. (a) Notwithstanding **Sections 6252 and 6253**, statewide, county, city, and district initiative, referendum, and recall petitions, petitions circulated pursuant to **Section 5091 of the Education Code**, petitions for the reorganization of school districts submitted pursuant to **Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code**, petitions for the reorganization of community college districts submitted pursuant to **Part 46 (commencing with Section 74000) of the Education Code** and all memoranda prepared by the county elections officials in the examination of the petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions or who are responsible for the preparation of that memoranda and, if the petition is found to be insufficient, by the proponents of the petition and the representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor. However, the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine the material upon approval of the appropriate superior court.

(b) If the proponents of a petition are permitted to examine the petition and memoranda pursuant to **SUBDIVISION (A)**, the examination shall commence not later than 21 days after certification of insufficiency, and the county elections officials shall retain the documents as prescribed in **SECTION 17200 OF THE ELECTIONS CODE**.

(c) As used in this section, "petition" shall mean any petition to which a registered voter has affixed his or her signature.

1 (d) As used in this section, “proponents of the petition” means the following:

2 (1) For statewide initiative and referendum measures, the person or persons who
3 submit a draft of a petition proposing the measure to the Attorney General with a
4 request that he or she prepare a title and summary of the chief purpose and points
5 of the proposed measure.

6 (2) For other initiative and referenda on measures, the person or persons who
7 publish a notice of intention to circulate petitions, or, where publication is not
8 required, who file petitions with the elections official.

9 (3) For recall measures, the person or persons defined in Section 343 of the
10 Elections Code.

11 (4) For petitions circulated pursuant to Section 5091 of the Education Code, the
12 person or persons having charge of the petition who submit the petition to the
13 county superintendent of schools.

14 (5) For petitions circulated pursuant to Article 1 (commencing with Section
15 35700) of Chapter 4 of Part 21 of the Education Code, the person or persons
16 designated as chief petitioners under Section 35701 of the Education Code.

17 (6) For petitions circulated pursuant to Part 46 (commencing with Section
18 74000) of the Education Code, the person or persons designated as chief
19 petitioners under Sections 74102, 74133, and 74152 of the Education Code.

20  **Staff Note.** Section 6253.5 was amended by AB 1729 (Committee on Elections &
21 Redistricting), 2017 Cal. Stat. ch. 534, § 2.

22 **§ 6254 (amended). Exemptions from disclosure**

23 6254. Except as provided in Sections 6254.7 and 6254.13, this chapter does
24 not require the disclosure of any of the following records:

25

26 (p)(1) Records of state agencies related to activities governed by Chapter 10.3
27 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525),
28 and Chapter 12 (commencing with Section 3560) of Division 4, that reveal a state
29 agency’s deliberative processes, impressions, evaluations, opinions,
30 recommendations, meeting minutes, research, work products, theories, or strategy,
31 or that provide instruction, advice, or training to employees who do not have full
32 collective bargaining and representation rights under these chapters. **THIS**
33 **PARAGRAPH** shall not be construed to limit the disclosure duties of a state
34 agency with respect to any other records relating to the activities governed by the
35 employee relations acts referred to in **THIS PARAGRAPH**.

36 (2) Records of local agencies related to activities governed by CHAPTER 10
37 (COMMENCING WITH SECTION 3500) OF DIVISION 4, that reveal a local
38 agency’s deliberative processes, impressions, evaluations, opinions,
39 recommendations, meeting minutes, research, work products, theories, or strategy,
40 or that provide instruction, advice, or training to employees who do not have full
41 collective bargaining and representation rights under THAT CHAPTER. **THIS**
42 **PARAGRAPH** shall not be construed to limit the disclosure duties of a local

1 agency with respect to any other records relating to the activities governed by the
2 employee relations act referred to in **THIS PARAGRAPH**.

3

4  **Staff Note.** Section 6254 was amended by AB 1455 (Bocanegra), 2017 Cal. Stat. ch. 560, § 1.
5 Because Section 6254 is very long, this Exhibit only shows the part of it that was revised by AB
6 1455.

7 **§ 6254.3 (amended). Personal information of agency employee**

8 6254.3. (a) The home addresses, home telephone numbers, personal cellular
9 telephone numbers, and birth dates of all employees of a public agency shall not
10 be deemed to be public records and shall not be open to public inspection, except
11 that disclosure of that information may be made as follows:

12 (1) To an agent, or a family member of the individual to whom the information
13 pertains.

14 (2) To an officer or employee of another public agency when necessary for the
15 performance of its official duties.

16 (3) To an employee organization pursuant to regulations and decisions of the
17 Public Employment Relations Board, except that the home addresses and any
18 phone numbers on file with the employer of employees performing law
19 enforcement-related functions, and the birth date of any employee, shall not be
20 disclosed.

21 (4) To an agent or employee of a health benefit plan providing health services or
22 administering claims for health services to public agencies and their enrolled
23 dependents, for the purpose of providing the health services or administering
24 claims for employees and their enrolled dependents.

25 (b)(1) Unless used by the employee to conduct public business, or necessary to
26 identify a person in an otherwise discloseable communication, the personal email
27 addresses of all employees of a public agency shall not be deemed to be public
28 records and shall not be open to public inspection, except that disclosure of that
29 information may be made as specified in **PARAGRAPHS (1) TO (4),**
30 **INCLUSIVE, OF SUBDIVISION (A).**

31 (2) **THIS SUBDIVISION** shall not be construed to limit the public's right to
32 access the content of an employee's personal email that is used to conduct public
33 business, as decided by the California Supreme Court in *City of San Jose v.*
34 *Superior Court* (2017) 2 Cal.5th 608.

35 (c) Upon written request of any employee, a public agency shall not disclose the
36 employee's home address, home telephone number, personal cellular telephone
37 number, personal email address, or birth date pursuant to **paragraph (3) of**
38 **subdivision (a)** and an agency shall remove the employee's home address, home
39 telephone number, and personal cellular telephone number from any mailing list
40 maintained by the agency, except if the list is used exclusively by the agency to
41 contact the employee.

1 **Staff Note.** Section 6254.3 was amended by AB 119 (Committee on Budget), 2017 Cal. Stat.
2 ch. 21, § 5.

3 **§ 6254.4.5 (added). Video or audio recording created during commission or investigation of**
4 **specified crimes**

5 6254.4.5. (a) **THIS CHAPTER** does not require disclosure of a video or audio
6 recording that was created during the commission or investigation of the crime of
7 rape, incest, sexual assault, domestic violence, or child abuse that depicts the face,
8 intimate body part, or voice of a victim of the incident depicted in the recording.
9 An agency shall justify withholding such a video or audio recording by
10 demonstrating, pursuant to **SECTION 6255**, that on the facts of the particular
11 case, the public interest served by not disclosing the recording clearly outweighs
12 the public interest served by disclosure of the recording.

13 (b) When balancing the public interests as required by **THIS SECTION**, an
14 agency shall consider both of the following:

15 (1) The constitutional right to privacy of the person or persons depicted in the
16 recording.

17 (2) Whether the potential harm to the victim caused by disclosing the recording
18 may be mitigated by redacting the recording to obscure images showing intimate
19 body parts and personally identifying characteristics of the victim or by distorting
20 portions of the recording containing the victim's voice, provided that the redaction
21 does not prevent a viewer from being able to fully and accurately perceive the
22 events captured on the recording. The recording shall not otherwise be edited or
23 altered.

24 (c) A victim of a crime described in **SUBDIVISION (A)** who is a subject of a
25 recording, the parent or legal guardian of a minor subject, a deceased subject's
26 next of kin, or a subject's legally authorized designee, shall be permitted to inspect
27 the recording and to obtain a copy of the recording. Disclosure under **THIS**
28 **SUBDIVISION** does not require that the record be made available to the public
29 pursuant to **SECTION 6254.5**.

30 (d) Nothing in **THIS SECTION** shall be construed to affect any other
31 exemption provided by **THIS CHAPTER**.

32 **Staff Note.** Section 6254.4.5 was added by AB 459 (Chau), 2017 Cal. Stat. ch. 291, § 1.

33 Article 2. Other Exemptions From Disclosure

34 **§ 6276.12 (amended). Conservatee's report to customer list of telephone answering service**

35 6276.12. Conservatee, confidentiality of the conservatee's report, **Section 1826,**
36 **Probate Code.**

37 Conservatee, estate plan of, confidentiality of, **Section 2586, Probate Code.**

38 Conservatee with disability, confidentiality of report, **Section 1827.5, Probate**
39 **Code.**

1 Conservator, confidentiality of conservator's birthdate and driver's license
2 number, Section 1834, Probate Code.

3 Conservator, supplemental information, confidentiality of, Section 1821,
4 Probate Code.

5 Conservatorship, court review of, confidentiality of report, Section 1851,
6 Probate Code.

7 Consumer fraud investigations, access to complaints and investigations, Section
8 26509.

9 Consumption or utilization of mineral materials, disclosure of, Section 2207.1,
10 Public Resources Code.

11 Contractor, evaluations and contractor responses, confidentiality of, Section
12 10370, Public Contract Code.

13 Contractor, license applicants, evidence of financial solvency, confidentiality of,
14 Section 7067.5, Business and Professions Code.

15 Controlled Substance Law violations, confidential information, Section 818.7.

16 Controlled substance offenders, confidentiality of registration information,
17 Section 11594, Health and Safety Code.

18 Cooperative Marketing Association, confidential information disclosed to
19 conciliator, Section 54453, Food and Agricultural Code.

20 Coroner, inquests, subpoena duces tecum, Section 27491.8.

21 County aid and relief to indigents, confidentiality of investigation, supervision,
22 relief, and rehabilitation records, Section 17006, Welfare and Institutions Code.

23 County alcohol programs, confidential information and records, Section 11812,
24 Health and Safety Code.

25 County Employees' Retirement, confidential statements and records, Section
26 31532.

27 County mental health system, confidentiality of client information, Section
28 5610, Welfare and Institutions Code.

29 County social services, investigation of applicant, confidentiality, Section
30 18491, Welfare and Institutions Code.

31 County social services rendered by volunteers, confidentiality of records of
32 recipients, Section 10810, Welfare and Institutions Code.

33 County special commissions, disclosure of health care peer review and quality
34 assessment records not required, Section 14087.58, Welfare and Institutions Code.

35 County special commissions, disclosure of records relating to the commission's
36 rates of payment for publicly assisted medical care not required, Section 14087.58,
37 Welfare and Institutions Code.

38 Court files, access to, restricted for 60 days, Section 1161.2, Code of Civil
39 Procedure.

40 Court files, access to, restricted for 60 days, SECTION 1708.85, CIVIL CODE.

41 Court reporters, confidentiality of records and reporters, Section 68525.

42 Court-appointed special advocates, confidentiality of information acquired or
43 reviewed, Section 105, Welfare and Institutions Code.

1 Crane employers, previous business identities, confidentiality of, Section 7383,
2 Labor Code.

3 Credit unions, confidentiality of investigation and examination reports, Section
4 14257, Financial Code.

5 Credit unions, confidentiality of employee criminal history information, Section
6 14409.2, Financial Code.

7 Criminal defendant, indigent, confidentiality of request for funds for
8 investigators and experts, Section 987.9, Penal Code.

9 Criminal offender record information, access to, Sections 11076 and 13202,
10 Penal Code.

11 Crop reports, confidential, **subdivision (e), Section 6254.**

12 Customer list of chemical manufacturers, formulators, suppliers, distributors,
13 importers, and their agents, the quantities and dates of shipments, and the
14 proportion of a specified chemical within a mixture, confidential, Section 147.2,
15 Labor Code.

16 Customer list of employment agency, trade secret, Section 16607, Business and
17 Professions Code.

18 Customer list of telephone answering service, trade secret, Section 16606,
19 Business and Professions Code.

20  **Staff Note.** Section 6276.12 was amended by SB 157 (Wieckowski), 2017 Cal. Stat. ch. 233,
21 § 2.